

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended, and in light of the following discussion, is respectfully requested.

Claims 1-12, 14-23 and 25-37 are pending in the present application. Claims 1, 11-12, 14, 22-23, 25-26 and 36-37 are clarified by the amendment submitted herewith. Support for the clarifications to the claims is found in the original claims. Claims 13, 24 and 38 are canceled without prejudice or disclaimer. No new matter has been added.

In the Official Action, the Title was objected to; the specification was objected to; Claims 1, 13, 14-21 and 24-35 were rejected under 35 U.S.C. §101; and Claims 1-38 were rejected under 35 U.S.C. §102(b) as being anticipated by EP 1 107 595 (Yoshida).

The Title is amended so as to be more descriptive. Accordingly, reconsideration of the objection to the Title is respectfully requested.

The Office Action stated that the specification was objected to for failing to provide proper antecedent basis for the claimed subject matter. The Office Action cited “storage means for” of Claim 1 as not being disclosed or defined. Further, the Office Action stated Claims 1, 14-21 and 25-25 each lack the necessary physical articles or objects to constitute a machine or manufacture within the meaning of 35 U.S.C. §101. The objection to the specification and the rejection of Claims 1, 14-21 and 25-35 under 35 U.S.C. §101 are traversed for the following reasons.

Claims 1, 14-21 and 25-35 recite means-plus-function elements under 35 U.S.C. §112, sixth paragraph, which states that “[a]n element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and *such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents*

thereof.”¹ Proper claim interpretation of a means-plus-function element entails consideration of the structures disclosed in the specification and equivalents thereof. It appears as though the means-plus-function elements have not been examined in view of the structures disclosed in the specification.

In determining the scope of the claims prior to determining compliance with each statutory requirement for patentability, MPEP § 2106 provides:

Where means plus function language is used to define the characteristics of a machine or manufacture invention, such language must be interpreted to read on only the structures or materials disclosed in the specification and "equivalents thereof" that correspond to the recited function. Two en banc decisions of the Federal Circuit have made clear that the USPTO is to interpret means plus function language according to 35 U.S.C. § 112, sixth paragraph. *In re Donaldson*, 16 F.3d 1189, 1193, 29 USPQ2d 1845, 1848 (Fed. Cir. 1994) (*en banc*); *In re Alappat*, 33 F.3d 1526, 1540, 31 USPQ2d 1545, 1554 (Fed. Cir. 1994) (*en banc*).

Disclosure may be express, implicit, or inherent. Thus, at the outset, USPTO personnel must attempt to correlate claimed means to elements set forth in the written description that perform the recited step or function. The written description includes the original specification and the drawings and USPTO personnel are to give the claimed means plus function limitations their broadest reasonable interpretation consistent with all corresponding structures or materials described in the specification and their equivalents including the manner in which the claimed functions are performed. See *Kemco Sales, Inc. v. Control Papers Company, Inc.*, 208 F.3d 1352, 54 USPQ2d 1308 (Fed. Cir. 2000). Further guidance in interpreting the scope of equivalents is provided in MPEP § 2181 through § 2186.

Accordingly, should the rejection of Claims 1, 14-21 and 25-35 be maintained or the objection to the specification be maintained in a subsequent communication, Applicant respectfully requests that the Examiner indicate how the written disclosure, including the drawing figures, does not provide support for the means-plus-function elements of the claims. Otherwise, it is respectfully submitted that the objection to the specification and the rejection of Claims 1, 14-21 and 25-35 under 35 U.S.C. §101 are improper and should be withdrawn.

¹ 35 U.S.C. §112, sixth paragraph (emphasis added).

Furthermore, Claims 12, 23, and 27 recite a computer-readable medium encoded with a computer, which is statutory under M.P.E.P. § 2106.01. Thus, Claims 12, 23, and 27 also define statutory subject matter.

Claim 1, as clarified by the amendment to the claims submitted herewith, recites:

An information-processing apparatus for generating attribute information of a content on the basis of information on said content, comprising:

acquisition means for acquiring said information on said content;

attribute-information generation means for generating said attribute information including a plurality of items on the basis of said information acquired by said acquisition means as said information on said content; and

first storage means for storing first weight information for said items of said attribute information generated by said attribute-information generation means, ***said first weight information prescribing a degree of contribution given by each of said items for computing a degree of similarity between said attribute information and predetermined favorite information of a user.*** [emphasis added]

As recited in clarified Claim 1, the first storage means stores first weight information for items of the attribute information of the content. The first weight information prescribes a degree of contribution given by each of the items for computing a degree of similarity between the attribute information and predetermined favorite information of a user.

The Office Action states that Yoshida discloses these features. Applicant respectfully disagrees for the following reasons.

The selection vector S , which the Office Action specifically identifies, is then calculated using an averaging of the values of a plurality of program vectors A_M of M programs reproduced or reserved by a user. Then, a comparison is performed on a new program vector A_{new} with vector S by using an internal product of vectors A_{new} and S to determine a relationship between the new program and the taste pattern of the user, as determined by S . If the relationship exceeds a predetermined value, then the new program is

recorded.² There is no weight information prescribing a degree of contribution given by each of the items disclosed or used here.

Moreover, the Office Action indicates that the vector A in Yoshida is both attribute information and weight information. It is unclear how vector A prescribes a degree of contribution given by each element of vector A for computing a degree of similarity between vector A and vector S considering that the integer value of each element of vector A is determined based on an intensity of an attribute of the program. Once the element is given a value in vector A, there is no weighting of the element for computing a degree of similarity.

Thus, Yoshida fails to disclose or suggest means for storing first weight information for items of attribute information generated by an attribute-information generation means, the first weight information prescribing a degree of contribution given by each of the items for computing a degree of similarity between the attribute information and predetermined favorite information of a user, as recited in clarified Claim 1. In particular, in Yoshida, the attribute vector A (which selection vector S utilizes) contains items which are ranked in intensity based on the contents of the program. There is no need and (as noted above) no disclosure or suggestion in Yoshida to use weight information in computing a degree of similarity between the attribute information and predetermined favorite information of a user.

Although directed at different statutory classes and/or varying in scope, it is respectfully submitted that Claims 11-12, 14, 22-23 and 25 are clarified by the amendment submitted herewith to recite features substantially similar to those noted above regarding clarified Claim 1. Therefore, for all of the reasons discussed above, it is respectfully submitted that Claims 1, 11-12, 14, 22-23 and 25 (and any claims depending therefrom) are allowable over Yoshida.

Further, Claim 26, as clarified by the amendment submitted herewith, recites:

² Yoshida, paragraphs [0060] to [0061] and [0072] to [0080].

An information-processing apparatus for carrying out processing to select a content matching a favorite of a user, comprising:
acquisition means for acquiring attribute information of said content;
and

bias-information generation means for generating, on the basis of *first information showing said favorite of said user* and second information showing a generally preferred favorite, third information revealing a bias of said favorite of said user as a bias with respect to said generally preferred favorite. [emphasis added]

The Office Action states that the vector A of Yoshida is information indicating a favorite of a user. However, as discussed in detail above, vector A merely provides information as to a television program. Moreover, vector S merely provides information as to average attribute values of selected television programs. Yoshida is silent regarding information regarding showing a favorite of a user. As noted above, reference to the specification from page 4, line 14 to page 8, line 20 is made as to the limitations of Yoshida.

Although directed at different statutory classes and/or varying in scope, it is respectfully submitted that Claims 36 and 37 are clarified by the amendment submitted herewith to recite features substantially similar to those noted above regarding clarified Claim 26. Therefore, for all of the reasons discussed above, it is respectfully submitted that Claims 26, 36 and 37 (and any claims depending therefrom) are allowable over Yoshida.

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that this application is in condition for allowance, and such action is respectfully requested at an early date.

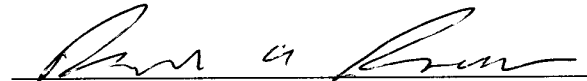
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Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Bradley D. Lytle", is written over a horizontal line.

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